IN THE HIGH COURT OF JUDICATURE, JABALPUR M.P.

W.P. NO. 2987/2000

(3)

Bhuneshwari Bunkar Sahkari Samiti Maryadit, Dongargaon --- PETITIONER

- VERSUS -

Presiding Officer, Labour Court Rajnandgaon & another --- RESPONDENTS.

WRIT PETITION UNDER ARTICLE 226/226 OF THE CONSTITUTION OF INDIA

1. PARTICULARS OF THE PETITIONERS:-

Bhuneshwari Bunkar Sahkari Samiti Maryadit,
Dongargaon (MP)
Distt. Rajnandgaon
Through itrs Manager

2. PARTICULARS OF THE RESPONDENTS:-

1- The Presiding Officer,
Labour Court,
RAJNANDGAON (MP)

2- Shri Rajkumar Ganjir S/o Shri Gendlal Ganjir,
R/o Village Kursipar, P.O. Kursipar,
Tahsil Kursipar Distt Rajnandgaon (MP).
Ex-Sales Manager, Bhuneshwari Bunkar Sah.Samiti,
Dongargaon.

3. PARTICULARS OF THE ORDERS AGAINST WHICH THE PETITION IS MADE :

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(28)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2987/2000

Hon'ble Shri Justice **Satish K. Agnihotri**

PETITIONER : Bhuneshwari Bunker Sahkari Samiti Maryadit, Dongargaon

Versus

RESPONDENTS : Presiding Officer, Labour Court Rajnandgaon & another

Present :

Shri Anoop Mazumdar, counsel for the petitioner.

None appears for the respondent No. 2.

ORDER

(Passed on 29th August, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. Despite service, none appears for the respondent No. 2.

2. The undisputed facts of the case are that the petitioner is a Registered Co-operative Society governed under the provisions of the Chhattisgarh Co-operative Societies Act, 1960 (for short 'The Act'). Section 55 of the Act provides for Registrar's power to determine conditions of employment in societies. Sub-section (2) of section 55 provides that where a dispute regarding terms of employment working conditions and disciplinary action taken by the society, arises between a society and its employees, the Registrar or any officer appointed by him not below the rank of Assistant Registrar shall decide the dispute and his decision shall be

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binding on the society and its employees. The dispute arose between the petitioner and the respondent No.2 when the service of the respondent No. 2 was terminated by the petitioner Society vide order dated 1.6.92.

3. The matter was referred to the to the Labour Court, Rajnandgaon under the provisions of the Industrial Disputes Act, 1947 being Appeal No. 25/I.D. Act/95 {Ref.}. The Labour Court passed the award ex-parte and directed reinstatement of the respondent No. 2 with full back wages by order dated 24.3.1998 (Annexure P/1).

4. Learned counsel appearing for the petitioner submits that the Labour Court has no jurisdiction under the provisions of the Industrial Disputes Act, 1947. The Registrar alone is competent to decide the dispute between the Co-operative Society and its employees in case of the dispute arising out of employment, working conditions and disciplinary action. Thus, the award passed by the Labour Court is a nullity.

5. The Supreme Court in the case of R.C. Tiwari Vs. M.P. State Co-operative Marketing Federation Ltd. and others[1] observed in para 3, as under :-

> "Para 3.....Section 55 of the Societies Act gives power to the Registrar to deal with disciplinary matters relating to the employees in the Society or a class of Societies including the terms and conditions of employment of the employees. Where a dispute relates to the terms of employment, working conditions, disciplinary action taken by a society, or arises between a Society and its employees, the Registrar or any officer appointed by him, not below the rank of Assistant Registrar, shall decide the dispute and his decision shall be binding on the society and is employees. As regards power under Section 64, the language

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is very wide, viz., "Notwithstanding anything contained in any other law for the time being in force any dispute touching the constitution, a management or business of a society or the liquidation of a Society shall be referred to the Registry by any of the parties to the dispute." Therefore, the dispute relating to the management or business of the Society is very comprehensive as repeatedly held by this Court. As a consequence, special procedure has been provided under this Act. Necessarily, reference under Section 10 of the Societies Act stands excluded....."

6. The Supreme Court in the case of Sagarmal Vs. Distt. Sahkari Kendriya Bank Ltd., Mandsaur and another[2] observed in para 3, as under :-

"Para 3.....There can be no doubt that the provisions of the Central Act, namely, the Industrial Disputes Act, 1947 did not apply to the employees of the respondent cooperative bank and, therefore, the only question which could arise was of the availability of the remedy either under the Madhya Pradesh Cooperative Societies Act, 1960 or under the Madhya Pradesh Industrial Relations Act, 1960. It is for this question, if it were to arise, that the effect of Section 93 of the Madhya Pradesh Cooperative Societies Act would come in. However, no occasion arose for consideration of this question in the present case inasmuch as the appellant did not resort to the remedy either under the Madhya Pradesh Cooperative Societies Act or under the Madhya Pradesh Industrial Relations Act, but chose the remedy of a reference under Section 10 of the Industrial Disputes Act, 1947 which is clearly inapplicable. The only question before the High Court was the competence of a reference under Section 10 of the Industrial Disputes Act, 1947 and not the availability of the remedy under the Madhya Pradesh Cooperative Societies Act or the Madhya Pradesh Industrial Relations Act. The view

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> taken by the High Court that the reference under Section 10 of the Industrial Disputes Act, 1947 was incompetent and, therefore, the award made therein a nullity, does not suffer from any infirmity....."

7. In view of the dicta laid down by the Supreme Court in the aforementioned cases, it is well established that no reference under Section 10 of the Industrial Disputes Act, 1947 is maintainable before the Labour Court.

8. Accordingly, the impugned award passed by the Labour Court is a nullity and deserves to be quashed. The writ petition is allowed accordingly. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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[1](AIR 1997 Supreme Court 2652)

[2]{(1997) 9 Supreme Court Cases 354}